IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR.
:::
O R D E R

Ved Prakash & Ors. vs. State of Rajasthan & Ors.

S.B. CIVIL WRIT PETIION NO.436/1996 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER : 17th August, 2007

PRESENT
HON'BLE MR. JUSTICE PRAKASH TATIA

Mr. JL Purohit, for the petiitoners.
Mr. MS Singhvi, for the respondents
Mr. NM Lodha, AAG for the respondent-State.

<><><>

BY THE COURT:

Heard learned counsel for the parties.

The petitioners have challenged the notifications dated 15.6.1994, 31.12.1994 and 15.7.1995 (Annexs. 3,4 and 5) respectively.

The contention of the petitioners is that as per the Rule 45 of the Indian Electricity Rules, 1956 (for short the Rules of 1956) the no electrical installation work, including additions, alterations, repairs and adjustments to existing installations, except such replacement of lamps, fans, fuses, switches, low voltage domestic appliances and fittings as in no way alters its capacity or character, shall be carried out upon the

premises of or on behalf of any consumer, owner or occupier for the purpose of supply to such consumer or occupier except by an licensed electrical contractor in this behalf by the State Government and under the supervision of a person holding a certificate of competency and by a person holding a permit issued or recognized by the State Government. Despite this clear mandate, the State Government issued time to time notifications dated 15th June, 1994, 13th Dec., 1994 and 15th July, 1995 and dispensed with the conditions, which are imposed by Rule 45 of the Rules of 1956, which substantially adversely affected the petitioners nos. 1 and 2 as well as members of the petitioner no.3 Sangh. According to learned counsel for the petitioners though there is a power given to the State Government to relax the conditions as prescribed in sub-rule (1) of Rule 45 of the Rules of 1956 but that applies to only installations of mines, oil-fields and railways and the power has been given to the Central Government only to relax the conditions of sub-rule (1) of Rule 45 of the Rules of 1956. The State Government's power is given under Rule 133 of the Rules of 1956 in the matter of relaxation of certain conditions,which are otherwise mandatory. Sub-rule (1) of Rule 133 of the Rules of 1956 also makes it clear that even the State Government shall

have power to relax the conditions generally or in particular case to such extent and subject to such conditions as it may think fit. It is submitted that in the garb of said power empowering State Government to relax certain conditions imposed by the Rules of 1956, the State Government decided to relax the rules in such a manner so as to allow certain categories of persons like the persons who are residing in the area where the population is less than 2000, instead of obtaining a certificate from the competent authority, it is expected from a consumer that he may only submit the affidavit after complying with the conditions of the rules framed by the State Government. The same is the effect of the notification dated 31.12.1994 by which the State Government permitted electricity connections to the consumers on their submitting affidavit that he has complied with the conditions of the rules and that affidavit of the consumer will be full compliance of sub-rule (1) of Rule 45 of the Rules of 1956. Similarly by notification dated 15th June, 194, the same concession has been given to the consumers seeking electricity connection for low and medium pressure electrical, Installation work upto 30 HP and for that purpose Wiremen and Supervisors are allowed to issue 'L' form in place of licenced electrical contractor.

Since vires of the notifications have been challenged by the petitioners, therefore, State has submitted detailed reply.

The State after raising several preliminary objections submitted that the above rules have been framed by the State Government for specific purpose for granting licence etc and provided procedure for such grant so that the electrical installation may be through electrical contractor as well as under the supervision of Supervisors. The State submitted that contractors tried their best to exploit the poor consumers and without visiting on the site and without execution of the work, they started issuing 'L' form by charging exorbitant fees from the poor and illiterate villagers and to void this mall practices, the State has taken policy decision to relax the conditions of the rules, but at the same time, all safety measures are as it is. The affidavit of the consumer is only a substitute of 'L' form, but the State has not dispensed with all other safety measures, which are required to be followed and for which the concerned authorities are required to satisfy themselves before granting electricity connection for the person seeking electricity connection. It is also submitted that the State exercised its power reasonably and within the power given by the proviso to the Rule 45 itself.

It is also submitted that none of the consumer has

raised any objection about the notifications issued by the State Government granting relaxation in observance of the sub-rule (1) of Rule 45. The petitioners are interested persons in their trade only and, therefore, they have no right to challenge the validity and legality of the impugned orders, which have been issued by the State Government by exercising power under the Rules of 1956 itself. In view of the above reasons, the writ petition of the petitioners may be dismissed on the ground of locus standi. Apart from the fact that on merits also, the petitioners failed to make out any case.

I considered the submissions of learned counsel for the parties and perused the relevant provisions of law.

So far as contention of the petitioners that under proviso to Rule 45 or under Rule 133 of the Rules of 1956, only the Central Government has power to relax rules, appears to be wrong. The other contention of the petitioners is that the State Government may have power to relax the rule but the rule can be exempted only on prescribing other conditions, which may be imposed by the State Government. In the present case, the State Government has relaxed the applicability of sub-rule (1) of Rule 45 but without imposing any condition, therefore, the relaxation in conditions in

question are absolutely illegal and contrary to the proviso to the Rule 45.

A bare perusal of proviso to Rule 45 makes it clear that the Central Government alone has been given power to relax conditions of Rule 45 in the matter of electricity institution of mines, oil fields and railway whereas the State Government has been given power to relax the condition in all other cases by mentioning "*.....and in other cases the State Government may by notification in Official Gazette exempt.....*" In view of the above, the contention of the petitioners which was originally was that the State Government has no power to relax the condition of sub-rule (1) of Rule 45 cannot be accepted.

So far as the argument that exemption from complying with Rule 45 can be only on conditions, which may be imposed by the State Government is concerned, that argument also factually has no relevance because of the reason that the State Government as in the matter of grant of electricity connection to the consumer having population less than 2000 required affidavit and, therefore, it is a condition which is required to be followed by the consumer.

Learned counsel Shri MS Singhvi pointed out that the petitioners who are contractors having no right to challenge

the validity of the notifications as their rights have not been infringed in any manner and they cannot insist that they can have their business or their earning may be effected and, therefore, the State Government's notification is legal. Learned counsel Shri MS Singhvi further submitted that so far as safety measures are concerned, they have not been dispensed with. It is a matter of installation of electricity in the premises of consumer seeking electricity connections and the electricity connections are charged only after satisfaction that the electricity connections are safe and electricity connection can be given. It is further submitted that in the Electricity Act itself there is specific provision for appointment of the electrical inspector The electrical inspector is an independent body not appointed by the electricity board but appointed by the State Government and he is under obligation to check the safety measures in electrical installation.

I find force in the submissions of learned counsel Shri MS Singhvi also that petitioners challenged the notifications for their gain only and there is no grievance of any consumer or a person. Therefore, I do not find any reason to interfere in such matters of decision taken by the State Government within its power under proviso to Rule 45 of the Rules of

1945.

In view of the above, the writ petition of the petitioners is dismissed.

(PRAKASH TATIA), J.

c.p.goyal/-